

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSHUA KELLIER,

Plaintiff,

-against-

MR. BERKE; BAILIFF'S APPELLATE
DIVISION JUDGE,

Defendants.

22-CV-2504 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is proceeding *pro se*, provided as his address of record a post office mailbox in Brooklyn, New York. On July 20, 2022, the Court granted Plaintiff's request to proceed *in forma pauperis* (IFP), and the Clerk's Office mailed a copy of that order to Plaintiff. On August 4, 2022, however, the order was returned as undeliverable.

Under Rule 41(b) of the Federal Rules of Civil Procedure, a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff that it intends to do so. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001); *see Fields v. Beem*, No. 13-CV-0005 (GTS/DEP), 2013 WL 3872834, at *2 (N.D.N.Y. July 24, 2013) ("A plaintiff is required to notify the Court when his address changes, and failure to do so is sufficient to justify dismissal of a plaintiff's complaint.") (collecting cases).

The Court directs Plaintiff to update his address of record within 30 days of the date of this order. If Plaintiff fail to comply with this order, the Court will dismiss the action without prejudice for failure to prosecute.¹

¹ Because Plaintiff has not updated his address, in all likelihood he will not receive the order by mail. If Plaintiff remains interested in litigating this case, it is his responsibility to find out the status of this case, which he can do by calling the Clerk's Office or visiting in person.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: August 8, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge